

Notice of Allowability

Application No.

10/664,044

Applicant(s)

SATO ET AL.

Examiner

Art Unit

David A. Saunders

1644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment and RCE filed 8/21/07.
2. ☒ The allowed claim(s) is/are 1,5,10 and 14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

AMENDMENT ENTRY

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission (amendment) filed on 8/21/07 has been entered. Applicant's submission (Rule 1.132 declaration) filed on 6/18/07 will be considered.

In order to clarify the record, it is noted that the After FINAL amendment, filed on 6/18/07, has not been entered. On Form PTOL-303, mailed with the Advisory Action of 7/17/07, the indication by box 7 that the amendment "will be entered..." is to be taken as applying to the status of the claims only upon the filing of a Notice of Appeal. Since no Notice of Appeal was filed, and since Applicant's RCE only requested entry of the amendment file on 8/21/07, the amendment of 8/21/07 is the only amendment that has been entered, following the FINAL rejection of 2/21/07.

Claims 1, 5, 10 and 14 are pending and under consideration.

OBJECTION(S)/REJECTION(S) OF RECORD WITHDRAWN

The rejection of claim(s) 1, 5, 10 and 14 under 35 USC 112, 1st paragraph.

The 102(e) based rejection of claim(s) 5 and 14 over Narumi et al, due to the Rule 1.132 declaration of Satoh and Namuri, filed on 6/18/07.

The 103 based on 102(e) rejection of claims 1 and 10 over Narumi et al in view of Chaubron et al, due to the Rule 1.132 declaration of Satoh and Namuri, filed on 6/18/07.

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In the Rule 1.132 declaration of Satoh and Namuri, reference to "U.S. Patent Application No. 2004/0224320" is understood as inherently referring to instant application 10/664,044, since document "2004/0224320" is the US pre-grant publication of instant application 10/664,044.

ALLOWANCE

Claims 1, 5, 10 and 14 are allowed, since all bases of rejection have been overcome.

CONTACTS

Any inquiry concerning this or earlier communications from the examiner should be directed to David A. Saunders, whose telephone number is 571-272-0849. The examiner can normally be reached on Mon.-Thu. from 8:00 am to 5:30 pm and on alternate Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan, can be reached on 571-272-0841. The fax phone number for the organization where this application is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Typed 9/27/07 DAS



DAVID A. SAUNDERS
PRIMARY EXAMINER